

Section 7

Policy Implications

The potential solutions for addressing water supply needs outlined earlier in the report have a variety of policy and management implications. The following sections identify some of the key issues regarding implementation strategies for specific areas with projected water system deficiencies, at the regional level, individual systems level, or for the general approach outlined for small systems.

7.1 Regional Issues

The regional solutions described in the Outlook include enhanced conservation, wastewater and stormwater reuse, and conventional options (see Section 4). This section describes some of the policy and implementation issues associated with regional solutions.

7.1.1 Partnerships for Evaluating and Implementing Options

Perhaps the first policy consideration with respect to regional solutions is who will participate in further evaluation, selection, and implementation of alternatives. The Forum's role in preparing the Central Puget Sound Regional Water Supply Outlook (Outlook) has been to identify and describe potential options for the region. The Forum recognizes that input and direction from a variety of entities including the State, Tribes, water suppliers, environmental groups, businesses and others is needed regarding water resources decisions.

The traditional approach within the region has been that a given water supplier, such as a city or water district will propose a project, or set of alternatives. Projects and alternatives may include conservation strategies and reuse activities, alone or in combination with structural solutions such as new wells, diversions, pipelines, and storage facilities. The proponent's objectives and range of alternatives are then evaluated through a regulatory process involving the Washington State Departments of Health (DOH) and Ecology (Ecology). Apart from the project proponent and the State agencies with jurisdiction, other interested parties become involved through processes of agency consultation and public comment. Interested parties may include other water utilities, city and county governments, other State or federal agencies, Tribes, and stakeholders such as environmental organizations. In some cases, one or more of these third parties may litigate agency decisions.

An alternative approach to developing water resource solutions is based upon a collaborative model, utilizing existing resources and voluntary agreements.

For example, a basic premise of the Outlook is that sound water resource decision-making requires that water resource projects and programs having regional significance be described and analyzed using a consistent framework. This departs from the traditional model described above. Likewise, it is possible that the process for selecting and approving projects may depart to some degree from past practices. The Forum anticipates the development of a collaborative process with a variety of stakeholders to integrate information developed by the Outlook process with Endangered Species Act (ESA)/fisheries strategies being developed by the Tribes, watershed planning groups, the Tri-County ESA effort, fishery agencies, and other stakeholder groups to create an integrated strategy to meet the water quantity needs of fish and people in the Central Puget Sound. While this process may not wholly replace the more traditional process described above, it may provide a new framework for decisions.

As with any departure from past practice, this would require careful consideration and definition of the roles and responsibilities of all parties involved, within the framework of State law. If a non-traditional approach is used to coordinate water resource decisions for the region, an agreement or series of agreements among involved parties may be helpful to provide structure and definition.

Institutional arrangements for implementation of regional solutions may also depart from past practices. The parties directly implementing solutions may be individual water suppliers, or may be groups of water suppliers that come to an agreement by contract, Memoranda of Understanding (MOU), or other agreements. Because of the necessity for bonding, ownership, maintenance, etc. involving physical facilities, the institutional arrangements for implementing structural solutions (e.g., diversions, wells, storage facilities, etc.) may well be different from those involving programmatic solutions such as conservation. It may be valuable to define different implementation pathways for structural and non-structural solutions. Similarly, different pathways may be appropriate for projects with relatively narrow applications, compared with those that offer broad public benefits in water supply and environmental quality. These pathways would address financing, ownership, administration, and operations.

In any case, water resource solutions having regional significance will likely require a much higher degree of inter-governmental coordination than has been necessary in the past.

7.1.2 Water Right Considerations

At this time, there are some uncertainties within the State regarding the administration of water rights. Several water rights issues are important

with regard to regional water supply. Four of the most important considerations are:

- ❑ *Obtaining New Water Rights.* In the current political and environmental climate, it is difficult for water systems to acquire new water rights. Because of current competing interests for water and the historical over-appropriation of rights for some water bodies, it is unlikely in many cases that new water rights will be granted. If it is possible to obtain rights, the process can still be lengthy and expensive.
- ❑ *Changing Existing Water Rights.* Similar to the previous limitation, it is often difficult to change the purpose or place of use associated with a water right. Though more feasible than acquiring a new right, the process may still take a long time before resolution is made.
- ❑ *Place of Use.* The “place of use” defined for a water right may constrict a water supplier’s ability to transfer water outside of certain boundaries. This becomes important both as communities grow and as regional solutions for improving fish habitat and for people potentially involve transfer of water across various jurisdictional boundaries.
- ❑ *Inchoate Water.* Water rights that have been documented in claims or permits but have not yet been perfected (i.e., put to beneficial use) are termed “inchoate water.” At this time the situation regarding inchoate water is subject to considerable uncertainty. This ambiguity confounds long-term water supply planning and also acts as a disincentive for conservation.

Resolution of water right issues (in part or in whole) relating to regional solutions will likely involve some combination of collaborative efforts among water suppliers, agencies, and stakeholders; legislative action; and litigation. The issues in the County and the Central Puget Sound region will likely continue to be intertwined with issues affecting other types of water uses such as maintenance of certain instream flows in certain rivers and streams for fish recovery and irrigation.

7.1.3 Policies for Wheeling Water Supplies

Some regional solutions may involve wheeling, or transfer of water from a source utility to another utility using the transmission facilities (e.g., water mains) of a third utility. To some extent, wheeling is already practiced in the County, for example when a utility purchases water from Seattle that is transmitted through the distribution network of another utility. If large-scale wheeling arrangements involving many utilities become part of regional solutions, then new institutional arrangements, policies, and administrative practices will likely be needed. Key issues may include:

- ❑ *Pricing and Payment for Transmission Facilities.* The utility or utilities that provide capacity for moving water from one place to another should receive fair compensation for the use of their facilities.
- ❑ *Provision of Sufficient Capacity Over Time.* In some locales, capacity for wheeling water may be available in the short-term only. As growth occurs, this capacity may diminish. For the parties relying on wheeled water for their long-term solution, there needs to be some mechanism for ensuring continued capacity over an extended period of time.
- ❑ *Regulatory Oversight.* Various regulatory issues may be relevant to wheeling solutions. Those include statutory issues on interties between systems, Washington Utilities and Transportation Commission (WUTC) regulation of rates, where private for-profit systems are involved, etc. Agencies involved may include DOH, Ecology, and WUTC.

7.1.4 Pricing of Water in Regional Context

Pricing of wholesale water supplies is an important aspect of any regional solution. At present, pricing is typically established through contract arrangements. New or modified regional arrangements will require careful consideration of wholesale pricing.

In order to promote efficient use of water as a scarce resource, pricing should reflect economic factors such as the marginal cost of new supplies, the opportunity cost of developing new supplies (including the value of alternative uses such as leaving water in streams); and the option value of reserving supplies for future needs (i.e., for fish or people). Fully incorporating these factors into wholesale pricing structures requires careful analysis and, in some cases, value judgments.

At the same time, pricing needs to be fair and equitable among the parties involved. Equity considerations bring a wide range of factors into play, such as current pricing differentials among various utilities; ensuring basic needs for domestic consumption can be met by all customers; the varying needs of different sectors such as residential, commercial, and industrial; and, the relative benefits of infrastructure or other investments to the various parties involved.

7.1.5 Other Regional Considerations

Environmental factors are a critical element in determining water resource options for the County area and the Central Puget Sound region as a whole. Existing State programs and Tribal involvement, as well as new policies regarding the ESA, will continue to affect water supply planning far into the future. As water suppliers are beginning to engage in regional activities,

they are appropriately taking on concomitant responsibilities to balance needs involving the environment.

As regional solutions are further defined and implemented, it will also be important to remain consistent with growth management policies of the County and local municipalities. To some extent this function is carried out by the County's review of individual water system plans; the County's participation as a member of the Forum and a participant in further discussions of regional water resource decisions; and, each local municipality's application of water resource strategies to meet needs within its growth management area. However, enhanced coordination between water suppliers and land use authorities would be beneficial in this regard.

7.2 Issues Related to Individual Utility Solutions

For individual utilities planning water supply enhancement projects, such as those described in Section 5, there are multiple issues that will play roles in shaping solutions. In general, the types of solutions discussed for individual utilities fit the traditional model of decision-making described in Section 7.1. Therefore, the potential institutional issues are substantially reduced. However, many of the other issues discussed in Section 7.1 are equally applicable to local utility solutions and may prevent some of these solutions from being implemented. These include:

- ☐ Water rights;
- ☐ Environmental impacts of water resource solutions;
- ☐ Wheeling arrangements, where applicable;
- ☐ Pricing of wholesale supplies; and,
- ☐ Growth management considerations.

These issues are not discussed in detail here, with respect to individual utilities. These issues will need to be worked out case-by-case as utilities propose, seek approval for, and implement their particular water supply solutions.

7.3 Issues Related to General Approach for Small Systems

The proposed solution strategy outlined for small systems in Section 6 will be effective if policies and responsibilities at many levels are clear to all involved. This section identifies both responsibilities of various entities, and key policy issues with respect to implementation of the general approach discussed for small systems.

7.3.1 Responsibilities Related to Small Systems

Responsibilities for various entities involved include:

- ☐ *Small Systems.* The heightened awareness of public health and protection of the environment will inspire small systems to be more rigorous in

maintenance and operations and regulatory compliance. Often, problems may go unnoticed by regulators for some time, slowing the implementation of a solution. With a clearer picture of the options that are available to them, small systems should be better equipped to assess their own problems and seek an applicable solution.

- ❑ *Utilities with Defined Service Areas.* Large utilities with defined service areas should anticipate that failing small systems may come to them over time asking for assistance. Utility policies, in conjunction with the coordinated water system plans for East King County and South King County, respectively, typically include provisions for eventual service of all potential customers within service area boundaries. However, policies should account for the connection of some small systems sooner than planned. Larger utilities should maintain flexibility to permit aid to small systems where feasible and where consistent with the objectives documented in the utility's comprehensive water system plan (WSP) and the County's comprehensive land use plan.
- ❑ *Seattle Public Utilities.* Some of the solutions for certain Group A and Group B systems with projected shortfalls could involve use of water from Seattle's Cedar, Tolt, and Highline wells sources of supply. As with other systems that have sources of supply, SPU should be prepared for requests to provide water to meet the needs of small systems in various locations. The quantities of water needed are likely to be quite small in relation to SPU's total system demand.
- ❑ *King County.* The County has certain responsibilities that affect water supply. Most importantly, the County is responsible for using its permitting authority to ensure that growth is compliant with the State's Growth Management Act (GMA). As such, the County is likely to continue to view water supply as an integral part of the needs of growth and continue to address this as an element in its GMA process. In addition, the County serves as the land-use planning agency outside of municipal jurisdictions, and serves as the permitting agency for new construction of developments that may include new small water systems. Table 7-1 provides a summary listing of some of the County's key water service related policies and ordinances.

Table 7-1	
King County Policies and Ordinances Related to Provision of Water Service	
<i>Comprehensive Plan Policies⁽¹⁾</i>	
Policy Number	Policy Summary
F-206	Public funds supporting growth should be directed to Urban Growth Areas (UGAs).
F-207	Rural Areas should be provided rural levels of service that do not facilitate urbanization.
F-225	In UGAs, all new growth should be served by Group A public water systems, except when no Group A system can provide service in a timely and reasonable manner.
F-227	In Rural Areas, private wells, Group B, and Group A water systems are all allowed. For new developments, Group A systems are required to provide service, unless they cannot do so in a timely and reasonable manner. Group A water service is required for new developments in areas that are either: 1) located within designated purveyor service areas, or 2) currently served by a failing Group B system.
<i>County Code Ordinances⁽²⁾</i>	
Ordinance	Ordinance Summary
13.24.138	Water facilities in rural areas shall be provided so as to be consistent with long-term low density residential development. Private wells and Group B systems are allowed in rural areas. Group A systems are allowed in rural areas only under certain conditions.
13.24.140	All development in UGAs shall be serviced by the appropriate Group A water system. However, alternative water service is allowed on an interim basis, only under specified conditions.

Notes:

- (1) Data Source: King County 2000 Comprehensive Plan Update, as amended, Chapter 7: Services, Facilities and Utilities. Not all water supply policies are listed.
- (2) Data Source: King County Code, Title 13, Water and Sewer Systems. Not all water service ordinances are listed.

Another responsibility of the County is the Seattle-King County Department of Health's role as regulator of Group B systems with fewer than ten connections.

As discussed earlier, the County also has a role as "provider of last resort" in the case that a failing small system has no other feasible options to address major problems. However, the county has never had to assume this responsibility.

- *State Department of Health.* DOH is directly responsible for monitoring and regulation of all Group A systems, as well as Group B systems with greater than ten connections. DOH is also responsible for implementing the Safe Drinking Water Act (SDWA) and a variety of other State regulations pertaining to administration and management of all water systems. DOH has a strong interest in ensuring that a solution strategy for failing small systems is effective. Additionally, there is opportunity for partnering between DOH and the County in setting forth consistent policies that make clear the options available to small systems and define the responsibilities that various parties have.

- ❑ *State Department of Ecology.* Ecology administers water rights, which requires balancing water supply needs with protecting the environment. While many small systems likely have sufficient water rights, there are new systems being created. Ecology will play an important role in its implementation of water rights policies, particularly with regard to “six-pack” developments (those that use less than 5,000 gallons per day from a single well) that claim exemption from the requirement to apply for a permit to withdraw ground water. Ecology will also play a role in interpreting water rights for small systems whose water rights are junior in priority to instream flows set by Washington Administrative Code in certain basins. Ecology also has the responsibility to provide timely review and actions related to water right applications.

7.3.2 Policy Issues Related to General Approach for Small Systems

Key policy issues concerning the approach outlined for small systems include:

- ❑ *Environmental Factors.* In light of the recent emphasis on environmental issues such as the ESA, public water systems need to continue to improve their water resources stewardship efforts, while providing reliable and high quality water to their customers. These issues will be important considerations for systems utilizing surface water, and also groundwater due to continuity issues.
- ❑ *Consistency with GMA.* Regardless of which type of solution is adopted for a particular small system, compliance with the County growth management requirements, which should in turn be consistent with GMA, is essential. This will be particularly important in cases where the solution calls for piping systems to be extended to reach a small system. Pipe sizing should be consistent with the level of service called for in the County Comprehensive Plan. This may vary depending on the location of the small system in relation to the County’s various UGAs. Systems within a UGA may have different requirements than systems outside UGAs, particularly with regard to capacity of piping to serve fire-protection needs.
- ❑ *Consistency with Utilities’ Approved Water System Plans.* Where small systems look to a larger system for assistance, it will be important for solutions to be consistent with the objectives of the larger utility’s comprehensive WSP.
- ❑ *Equity Issues.* Equity is another issue to be considered as one element in decision-making regarding solutions for small systems. For example, if a group of small systems were to merge to form a new water district, the goal would be for the merger not to result in subsidization of one group of customers by another group, unless it is in the form of a short-term

subsidy with a long-term payback. Past investments in system integrity by different groups should be recognized and factored into allocation of costs for repair or replacement of deficient facilities. The same would be true of a situation where a smaller system whose facilities are deficient merges with a larger system that has a sound system.

- ❑ *Water Rights.* As discussed previously (see Section 7.1.2), water rights should be carefully examined to determine whether they are consistent with a proposed solution. In some cases, changes in water rights may be needed, for example where a proposal would require water to be delivered outside the place of use designated in the water right.
- ❑ *Wheeling Considerations.* As discussed previously (see Section 7.1.3) where a small system solution involves wheeling water from a source utility through pipes owned by a third-party utility, a variety of issues may arise.
- ❑ *Special Considerations with Regard to Water Service for New Subdivisions and Developments.* In addition to resolving water supply issues that may arise from existing small systems, it should be recognized that new developments created over time may continue to create potential water supply problems. The King County Comprehensive Plan and County Code have specific provisions that address creation of new small systems, in both UGAs and rural areas of the County (see Table 7-1). Generally, for developments inside the UGA, these provisions encourage either immediate or eventual service by the larger existing Group A water systems, which have defined service areas (based on Coordinated Water System Plans, such as those developed for East and South King County). Similar provisions are in effect for rural areas that are within defined water system service areas.

For rural areas of the County, the Comprehensive Plan permits public provision of water service, as long as it “support[s] a rural level of development and [does] not facilitate urbanization.” Specific provisions permit individual household wells, and formation of new Group B water systems. Formation of new Group A water systems in the rural areas is permitted only under specific conditions. The condition most relevant to the discussion of small systems in this report involves situations where a small system has “quality or quantity problems that threaten public health and can best be solved by Group A service.”

These provisions are supported in State law. For example, the Public Water System Coordination Act requires that no new public water systems be established within a Critical Water Supply Service Area (CWSSA) (such as those declared for East and South King County) unless existing purveyors are unable to provide service in a timely and reasonable matter. GMA requires applicants for a building permit to provide evidence of sufficient water supply

and adequate distribution facilities. The County incorporates this requirement into its consideration of permit applications.

Effective management of new system formation requires partnership between the County government and water utilities. At the County level, procedures must be consistent with County code. Within Urban Growth Areas (UGAs) and defined utility service areas, procedures should encourage either connection to an existing water utility, administration by a Satellite System Management Agency (SSMA) on a temporary basis with eventual connection to an existing utility, or long-term administration by a SSMA where necessary. In addition, they should support the Code requirement that new water systems be designed in accordance with the standards of the utility that will eventually provide service. These procedures can apply to actions such as:

- ☐ New plat or subdivision;
- ☐ Short plats;
- ☐ Land use permits, changes and approvals;
- ☐ Rezones;
- ☐ Issuance of residential and commercial building permits;
- ☐ Creation of new water systems; and
- ☐ Resolution of health emergencies related to water supply.

At the utility level, policies and procedures for system extension and SSMA management need to be in place to effectively address service to proposed new developments. These should be consistent with County code and State law, and should address issues such as:

- ☐ Extension policies that address design, financing, and ownership of water main extensions and related distribution systems;
- ☐ How utilities will determine whether service to a proposed new development is reasonable and feasible;
- ☐ Satellite management of small systems on an interim basis;
- ☐ Design and construction of systems that will ultimately be owned by the utility; and,
- ☐ The conditions and timing regarding ultimate transformation of “interim” service by a small system, individual well, or SSMA to permanent arrangements for direct water service by the utility.